

R E M A R K S

Applicant notes with appreciation the telephone interview courteously afforded the undersigned representative of the Applicant on October 4, 2007, in which the Examiner's Supervisor, Mr. Igor Borissov, also participated.

The following is a summary of the topics discussed in the interview.

Claims 1-4 are currently rejected under 35 U.S.C. §102(b) as being anticipated by Schuricht et al. This same rejection was made in the first Office Action dated February 5, 2007, to which Applicant responded on May 2, 2007. In that response, Applicant argued, and provided documentary evidence, that the term "product code" is a term with a specific, well-documented meaning in the context of mail processing. The requirement to use such a "product code" for mailed items that are placed in the mail stream in many countries (the United States not being one of these countries) is a relatively recent occurrence, for which Applicant also provided documentary evidence. Applicant argued that since the filing date and issue date of the Schuricht et al. reference are far earlier than the date on which the term "product code" was even created, and subsequently required, the Schuricht et al. reference could not possibly provide any teachings concerning mail processing devices and methods making use of such a "product code," because the concept of a "product code" was not even in existence at the relevant times associated with the Schuricht et al. reference.

In responding to these arguments in the Final Rejection, the Examiner stated that it is the position of the Examiner that the different shipping modes and rate codes that are stored in a memory, as disclosed in the Schuricht et al. reference, at Figures 2B and 2C, and column 3, lines 19-21 and 42-59, serve the equivalent

purpose of a “product code.” The Examiner also noted that a carrier, such as the USPS, sets shipping rates and modes.

Applicant’s response to these statements of the Examiner is twofold. First, in view of the extremely specific, precise and well-publicized meaning of the term “product code” in the context of mail processing (in fact this is even a *governmentally* defined and regulated term), Applicant submits this is not the type of term or phrase in a patent claim that an Examiner is permitted to “interpret” or for which the Examiner is permitted to identify “equivalent” items. According to the governmentally defined definition of a “product code” as provided by the Applicant with Applicant’s previous response, an entry that is made in the context of mail processing either does or does not qualify as a “product code” with no ambiguity. This is clear because in the countries that require a product code, if a proper product code entry is not made when an item is originally placed in the mail stream in that country, the item will be considered to be undeliverable. Therefore, the postal authorities for the governments that use product codes would not permit a mail item originating in that country to be delivered that merely had “equivalent” information (according to the Examiner’s definition of “equivalent”).

This is also relevant to the second aspect of Applicant’s response, which is that, if the Examiner is relying on acts by a governmental authority, such as the USPS, in substantiating the Examiner’s position (as the Examiner appears to do, as noted above, in the Final Rejection), then the Examiner is not permitted to “pick and choose” which regulations or definitions of a governmental authority the Examiner will choose to rely on, and which definitions and regulations the Examiner will choose to ignore.

In this context, it is of course true that the USPS sets shipping rates and modes, but so have the other governmental postal authorities that require product codes, and those governmental authorities have made clear that the types of postal rates and shipping modes that are set by the USPS are *not* the same as the required "product code." If a shipper attempted to use postal rates and shipping modes of the type that are permitted by the USPS for making an original mailing in one of those other countries, that original mailing would be declined to be delivered. As further evidence on this point, attached hereto are pages 28 and 29 of an internal document of the Assignee of the present application (Francotyp-Postalia) explaining that in Canada, for example, a customer or a dealer *cannot* directly enter an amount of postage, but instead the customer or dealer must enter certain parameters which then determine the correct product code. This directly refutes the Examiner's contention that postal rates, for example, are somehow the "equivalent" of a product code. By definition, they are not.

In the telephone interview, consistent with the above arguments, Applicant's representative proposed amending independent claim 1 as set forth above, to refer to the postal-authority defined product codes as being country-specific, postal authority-defined product codes. As also discussed at the interview, and as should be clear from the definitions that have been provided by the Applicant during previous prosecution, a postal authority is inherently country-specific, because each country's postal authority has "jurisdiction" to regulate postage only in that country. The USPS, for example, has no authority to regulate postal matters in Canada, for example. It was agreed in the interview, however, that adding this additional modifier in claim 1 would distinguish claim 1 and the claims depending therefrom over the current prior art rejection. It was also stated at the interview that making

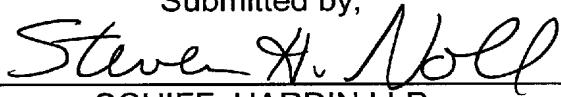
such a change at the "after final" stage of prosecution would raise a new issue requiring further searching or consideration, and thus it would be necessary to file an RCE in order to make this change in the claim language.

For the same reasons discussed above as to why Applicant believes, by definition, a postal authority must be country-specific, Applicant disagrees that making this change in the claim language would require the Examiner to conduct any new searching, or to construct his searching any differently. Since the previous claim language already described the product codes as being "postal authority-defined," Applicant finds it difficult to believe that the Examiner, who has presumably already searched the prior art for "postal authority-defined product codes" would conduct his search any differently in view of the fact that the Examiner must now search and consider "country-specific, postal authority-defined product codes." Applicant has no choice but to acquiesce in this conclusion on the part of the Examiner, however, and therefore the present RCE has been filed to permit consideration of this claim language.

In view of the agreements reached at the interview, withdrawal of the present rejection is respectfully requested, as is further consideration of the application.

The Commissioner is hereby authorized to charge any additional fees which may be required, or to credit any overpayment to account No. 501519.

Submitted by,

 (Reg. 28,982)

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4. User interface

4.1 Product Code Entry (general)

[PCE] describes FP's approach to handling product code entry (PCE). This section summarizes the approach.

A customer or a dealer cannot directly enter an amount of postage. Instead, a customer enters the necessary mailing parameters, such as the letter size, thickness, or optional additional services. The meter determines the correct product code and the right amount of postage. The meter supports the entire postage rate table as provided by CPC.

The meter determines a product code and required amount of postage in the following manner:

- meter with an integrated scale

The user answers a series of questions about the piece of mail; the scale provides the weight; and the meter calculates the product code and amount of postage.

- meter without a scale or with a defective scale

The user answers a series of questions about the piece of mail and its weight; the meter calculates the product code and amount of postage.

Table 12 lists the steps a customer takes.

| Step | mymail With an Integrated Scale | mymail Without a Scale or With a Defective Scale |
|------|---|---|
| 1 | Select destination (Ziel) | Select destination (Ziel) |
| 2 | Select type of mail (Art) | Select type of mail (Art) |
| 3 | Select format (Format) | Select format (Format) |
| 4 | Select type of shipment (Versandform) | Select type of shipment (Versandform) |
| 5 | Put letter on scale | Enter weight |
| | The meter calculates product code and amount of postage | The meter calculates product code and amount of postage |

Table 12: Calculating the Rate of Postage

The meter user interface was designed so that a customer has to select the different parameters of a piece of mail one after another. For example: a customer selects the format (size and thickness) in Step 3 and selects the weight in Step 5. As a result, the parameters a customer selects in Steps 1-5 identify a specific product that has a specific amount of postage and a specific product code.

All postage meters are delivered with both languages. Within the setup menu it is possible to toggle between English and French. The translation from English to French is a task of FP-Canada. Also they check the English wordings.

4.2 mymail

The mymail is defined as a small meter, therefore the PCE implementation is designed as follows:

Error! Style not defined.

- The user is able to select all postal services from PMPIHR table 1 except for Return Postage Prepaid. Additionally all postal services of table 3 are selectable except of Statement Of Mailing.
- The Indicia Codes of all postal services from table 1 and 3 are stored and transferred to the Central Server when the user performs a PVD.
- All other postal services are selected by choosing "others" in the menu. The amount is entered manually.
- The user could choose also additional services (Registration/Insurance) where capable.

4.3 Ultimail/optimail

Ultimail/optimail30 are defined as large meters, therefore they have to support complete product codes for PMPIHR Tables 1, 2 (except "Other Items") and 3.

The rate table has two versions: Base and Plus. The plus version could be replaced by so-called levels, which requires a contract between the user and CPC. Each of the rate table is provided by the Central Server when the user performs a PVD. The CD-operator steers for each user, which rate table is to be loaded.

4.3.1 Base-Version

- The user is able to select all postal services from PMPIHR table 1 and table 3.
- The Indicia Codes of all postal services from table 1, 2 and 3 are stored and transferred to the Central Server when the user performs a PVD. That is the reason why the user must select a product from table 2 although the price is not calculated by the postage meter.
The manual entry of the postage amount for table 2 products is limited to two allowed ranges which are calculated from the rate table (see 3.6 Additional Postage/Correction):
 - the lower allowed range is from 1 Cent to 1 Cent below the rate for the product "domestic letter mail item weighing 30 grams";
 - the upper allowed range is from 1 Cent above the rate for the product "international letter mail oversize item weighing 100 grams" to 99.99.In other words, the postage amount for table 2 products may not lie in the so called block out range between the two mentioned products.
- The prices of all postal services in table 1 and table 3 are automatically displayed and cannot be entered by the user.

4.3.2 Plus-Version

With the Plus-Version of the rate table the postal services of table 2 are calculated automatically. The user is asked to enter additional information such as the destination postal code. The following samples list the information, which is requested from the user. The postal services valid for the destination are enclosed in brackets.

- Domestic (Regular Parcel, XPressPost, Priority Courier):
The user enters the destination FSA and the prices is calculated by the postage meter. The FSA are the first three digits of the postal code.
Example: The postage meter is located in Ottawa. The origin postal code is K1A 1B1. It is stored in the meter. The user wants to send a parcel to Toronto. The destination